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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,871	02/27/2004	Peter T. Aylward	85377LMB	1163

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EXAMINER

SCHILLING, RICHARD L

ART UNIT PAPER NUMBER

1752

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/789,871

Applicant(s)

AYLWARD ET AL.

Examiner

Richard L. Schilling

Art Unit

1752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-49 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2-27-08</u> | 6) <input type="checkbox"/> Other: ____. |

1. Claims 2-6 and 33-35 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. In claims 2-6, there is no clear singular antecedent basis for the term "said polymer" since parent claim 1 sets forth two polymers, i.e. core polymer and solution polymer. Claim 35 lacks a period. There is no antecedent basis for the term "said polymer sheet" in claims 33 and 34 since polymer sheets are not set forth in parent claims 30 and 1.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) The invention was described in (1) an application for patent, published under Section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 7, 16 and 18-29 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Majumdar et al. '660. Majumdar et al. '660 (see particularly column 5, lines 40-50; column 8, lines 24-35; column 9, lines 47-67) discloses imaging elements with primer layers coated on polymer sheets including voided polymers including polymer foam. The primer layers are coated from solution polymers. If Majumdar et al. do not anticipate the instant claims, then it would at least be obvious to one skilled in the art to use polymer foam sheets as the called for polymer sheets which are coated with primer layers in Majumdar et al. Polymer foam sheets would inherently have rough surface values as disclosed in applicants' specification.

3. Claims 1-10 and 12-49 are rejected under 35 U.S.C. 102(a) and (e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Majumdar et al. '033. Majumdar et al. '033 (see particularly column 13, lines 33-51; column 14, line 20 - column 15, line 19) disclose imaging elements with antistatic layer solutions comprising polymer binders coated between upper flange layers and polymer foam cores or on the upper flange layers. The coated polymer layers of Majumdar et al. would inherently smooth the polymer foam substrates. If Majumdar et al. do not anticipate the instant claims, then it would at least be obvious to one skilled in the art to coat the antistatic layer polymer solutions of Majumdar et al. on the disclosed locations on the polymer cores or on the upper flange layers.

4. Claim 11 is objected to as depending on a rejected claim but would be allowable if written in proper independent form.

5. The prior art submitted by applicants has been considered.

6. Any inquiry concerning this communication should be directed to Mr. Schilling at telephone number (571) 272-1335.

RLSchilling:cdc

April 9,

2005

RICHARD L. SCHILLING
PRIMARY EXAMINER
GROUP 1752

